IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

S.T.R. No. 112 of 2003
(Old No. 1391/1992)

M/s Sikenderpur Khandsari Works
Sikenderpur Bhainswal, Roorkee …….Applicant

Vs.

The Commissioner of Sales Tax, U.P.
Lucknow ……Opposite Party

None for the Applicant.
Learned Standing Counsel for the respondent.

Hon'ble Prafulla C. Pant, J.

Heard learned Standing Counsel. No one turned up on behalf of the assessee, even after sufficient service.

This Sales Tax Revision, preferred under Section 11 (1) of the U.P. Sales Tax Act, 1948, was filed before the Allahabad High Court in the year 1992 and is received on transfer, by this Court, under Section 35 of U.P. Reorganisation Act, 2000, for its disposal.

The following questions of law are required to be answered in this revision:-

"1. Whether on the facts and circumstances of the case, the Sales Tax Tribunal was justified in law in upholding the rejection of the applicant's books of account and the finding to that effect is vitiated being based on irrelevant material and considerations?.

2. Whether on the facts and circumstances of the case, the finding of the Tribunal that the applicant must have purchased 'Gur' from the village is vitiated being based on pure surmises and conjectures?

3. Whether on the facts and circumstances of the case, the Tribunal was justified in law in not accepting the form-F for the consignment sales valued at Rs. 37,477.40 and not granting exemption to the applicant"

The assessee in the present case, deals with the manufacture and sale of 'Gur' and 'Khandsari'. The matter pertains to the assessment year 1988-89. The assessee has shown his sale to the tune of Rs. 30,45,979.90 paise, out of which sale on consignment basis through the Commission Agent, has been shown to be Rs. 3,65, 730.90 paise, Rs. 3,33,036.94 paise and Rs. 23,70,845.80, remaining sale to the tune of Rs. 76,353/-, has been shown within State through Arhat. The Assessing Officer, rejected the accounts books of the assesse and found that the assesse apart from manufacturing, purchased the 'Gur' and 'khandsari' from others and assessed tax to the tune of Rs. 84,600/-. On such first sale, sale of Rs. 6,00,000/- for Gur and Rs. 8,00,000/- for khandsari. Assessing Officer, further found that since central sale to the tune of Rs. 2,00,000/- and sale on the basis of form- F was not found supportive of bills, as such further tax of Rs. 23,747.75 was assessed. Against said order, dealer as well as the department preferred their appeals, before the Sales Tax Tribunal. It appears that the Assessing authority assessed the first sale on the basis of survey done of the stock, in which it was found that the sugarcane was not available. As to the survey report and rejection of the accounts books, the learned Sales Tax Tribunal has discussed the matter at length and this Court is not supposed to interfere as to the factual satisfaction made by the Assessing authorities, in rejecting the account books of the assesse. Similar, is the position, as to the purchase of Gur by the assessee, apart from what he manufactured. It is also clear from the record that the Assessing Officer gave sufficient time to the assesse to

produce the bills and supporting documents to justify what efforts he made to obtain form-F for the sale which he failed to produce. The learned Assessing Officer has for the want of said document, rightly treated the sale on the consignment basis, subject to the Central Sales Tax.

Accordingly, the revision is liable to be dismissed and the same is dismissed. All the three questions of law are answered in negative that is in favour of the department.

(Prafulla C. Pant, J.)

Dt: 25.07.2005
Sweta